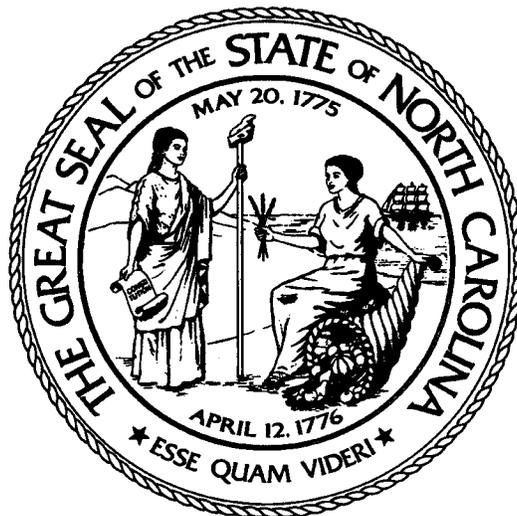


LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

EMPLOYEE ASSISTANCE PROFESSIONALS



ASSESSMENT REPORT
1995





North Carolina General Assembly

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June 15, 1995

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

Attached for your consideration is the assessment report on the licensing of employee assistance professionals (House Bill 779). This report serves as both the preliminary and final assessment reports, as required under Article 18A of Chapter 120 of the General Statutes.

**Senator David Parnell, Chairman
Legislative Committee on New Licensing Boards**

**PREPARED BY:
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ASSESSMENT REPORT

Employee Assistance Professionals provide consultative and related services to assist in the identification and resolution of job performance problems in the workplace. The services may consist of, among other things, problem assessment, establishment of linkages between the workplace and community counseling and treatment resources, and referrals to appropriate practitioners for diagnosis, treatment, and assistance.

Although there is currently a national credentialing program in place for those employee assistance professionals wishing to meet voluntary certification standards, there is no mandatory licensure in North Carolina. There are concerns that unqualified persons are practicing as employee assistance professionals and that these unqualified practitioners may be providing substandard services that endanger the effectiveness of valid workplace initiatives, including, for example, initiatives on workplace violence, drug testing, drug-free workplaces, and critical incidence stress debriefings. Unqualified practitioners may provide poor inadequate problem assessment, make inappropriate referrals to other providers, and breach employee confidentiality.

Approximately 2,000 North Carolina employers have employee assistance providers. About one-seventh of North Carolina's employees are covered by an employee assistance provider program, with utilization of the programs ranging from 5 to 25 percent. Assuming an annual utilization rate of just ten percent, approximately 42,000 persons will use the services of an employee assistance professional each year in North Carolina.



The proposed legislation to license employee assistance providers would create a 5-member Board of Employee Assistance Professionals: 4 of whom are licensed employee assistance professionals (2 of whom are privately employed) and one public member. To be licensed by the Board, the applicant must hold a masters degree, hold an undergraduate degree in a field of human service (unless the masters degree is in that field), and pass an examination.

The Legislative Committee on New Licensing Boards makes the following findings:

- (1) The unregulated practice of employee assistance professionals can substantially harm or endanger the public health, safety, or welfare, and the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- (2) The practice of employee assistance professionals possesses qualities that distinguish it from ordinary labor.
- (3) The practice of employee assistance professionals requires specialized skill and training.
- (4) A substantial majority of the public does not have the knowledge or experience to evaluate the practitioners' competence.
- (5) The public cannot be effectively protected by other means.
- (6) Licensure would not have a substantial adverse economic impact upon consumers.

The Legislative Committee on New Licensing Boards recommends the licensing of employee assistance professionals.

Assessment Report
Page 3

This assessment report is based on the proposal to license employee assistance professionals, as contained in House Bill 779. Information submitted to the Committee on this proposal is attached.

90LLJ-884





EMPLOYEE ASSISTANCE PROFESSIONAL'S

REPORT

TO

THE LEGISLATIVE COMMITTEE

ON

NEW LICENSING BOARDS

1995 NORTH CAROLINA GENERAL ASSEMBLY

An Act to create the North Carolina Board of Employee Assistance Professionals and to provide for the licensing of Employee Assistance Professionals (EAPs).

House Bill 779

SUMMARY OF PURPOSE

Employee Assistance Professionals are a large group of professionals extending themselves to the public to provide services in a program designed to assist in the identification and resolution of job performance problems in the workplace.

There are approximately 200 - 250 Certified (CEAP) and non certified Employee Assistance Professionals engaged in providing Employee Assistance Program (EAP) services in the state and the number is increasing. There are also numerous other professionals and non-professionals who are marketing themselves as EAP providers.

Currently, **anyone** can offer themselves to the marketplace as an Employee Assistance Professional and a provider of EAP services. There are no regulatory mechanisms in place to protect the individual and organizational consumer. The certification referred to above is a national **voluntary** certification based on demonstrated knowledge and experience.

The majority of Employee Assistance Professionals in North Carolina believe that it is essential to establish a system of licensure which will begin to regulate the Employee Assistance profession. As the marketplace becomes increasingly competitive, this system will provide consumers with a means of recognizing legitimate quality services provided by well trained EAP specific skilled professionals. ***The North Carolina Chapter of the Employee Assistance Professionals Association supports licensure as a means of protecting employers and their most important resource, their employees.***

I. A. *In what ways has the marketplace failed to regulate adequately the profession or occupation?*

Employee Assistance Program (EAP) is a relatively new field without the traditional methods of regulation used for other fields (psychiatry, psychology, Licensed Professional Counselor, etc.). Employee Assistance Professionals who provide Employee Assistance Programs to business and industry function as one of the few professions related to the human service field that is not regulated. Currently, anyone can offer themselves to the marketplace as an Employee Assistance Professional and provide services. Most employers do not have the time or the knowledge to adequately evaluate Employee Assistance Program providers or to compare the services offered. The marketplace has incorrectly assumed that this profession in North Carolina is regulated by some entity and is not aware of the liabilities that exist. There are presently no workplace regulations in place to protect the individual or organizational consumers of EAP services. With no regulation in the EAP field, the chances for inadequately prepared practitioners misrepresenting themselves to the marketplace as they offer themselves for services significantly increases.

The field has been fairly unstructured in terms of education and experience requirements until the recent adoption of national standards by the Employee Assistance Professionals Association (EAPA) and national certification requirements adopted by the Employee Assistance Certification Commission (EACC).

B. *Have there been any complaints about the unregulated profession or occupation? Please give specific examples including complainant's names and addresses.*

This is a difficult question to answer because of the confidential nature of EAP services. Complaints are rare because lodging a complaint requires exposure by an individual of the fact that they have used mental health and/or substance abuse services. These types of services still carry a stigma that makes consumers reluctant to admit to their use. Most complaints are expressed privately to the contracting employer but by then much of the harm is done. Consumers have not had an avenue of complaint such as a licensure board.

Over the past three years, there have been approximately twenty-five (25) incidents that have come to the attention of the Employee Assistance Professional Association (EAPA) or its national certifying body, Employee Assistance Certification Commission (EACC) regarding breeches of their code of ethics and conduct and complaints about EA Programs. (See letter from EAPA and articles in Attachment #1.)

One such North Carolina case that garnered national attention in the EAP field is the case of Reich v. Southern Bell Telephone and Telegraph Co. (1993) in which a provider of EAP services was accused of sexual misconduct and illegal drug use with a client.

II. A. *In what ways has the public health, safety or welfare sustained harm or is imminent danger of harm because of the lack of state regulation?*

Practitioners from other fields or others who have held themselves out as EAP providers often do not have the necessary required knowledge regarding organizations, core EAP technology, confidentiality issues, crisis intervention, substance abuse, etc. Without this requisite knowledge, they may provide substandard services that can jeopardize the effectiveness of workplace initiatives such as: drug-free workplace, drug testing, violence in the workplace, critical incidence stress debriefings, etc. Additionally, unqualified practitioners are more likely to provide poor inadequate problem assessment of employee's personal problems; inappropriate referrals to costly or inadequate treatment providers; and may often be guilty of intentional and unintentional confidentiality breeches and misrepresentation of client issues. In these cases, both the individual consumer and the organizational consumer, that is the employer that is contracting for these services, are without the assurance of the consumer protections afforded by licensure based on certification and ethical standards.

B. *Please give specific examples including names and addresses.*

Again, this is a difficult question to answer because of the confidentiality issues. One general example would be the large number of treatment providers who offer EAP services, often for free, as a way of generating referrals for their treatment center. Another would be human services professionals from other fields who attempt to provide EAP services based on other profession's standard, and without an understanding of the core workplace based technology that makes EAP unique. (See Attachment #2, Page 3, Psychotherapy Finances.)

III. A. *Is there potential for substantial harm or danger by the profession or occupation to the public health, safety or welfare? How can this potential for substantial harm or danger be recognized?*

Yes, there is definite potential for substantial harm or danger by the profession and occupation to the public health, safety or welfare.

Currently, approximately two-thousand (2,000) plus employers in North Carolina have EAPs and some (80,000) eighty thousand employers nationwide. 400,000 to 500,000 North Carolina employees and their families (1,125,000 persons based on a 2.5 percentage) have access to EAP services for assessment and referral services for a myriad of personal problems which include, but or not limited to; substance abuse, psychological/emotional, marital, legal and financial problems. The federal Department of Transportation (DOT) has a mandate for drug testing. Employers receiving \$25,000 or more in federal contracts are mandated to have a drug-free workplace. Both are mandated to have EAPs as part of these efforts to ensure safe drug-free workplaces.

Additionally, Corporate America concerns regarding health benefits, the Americans with Disabilities Act, and Workers Compensation Claims position EAPs in a key opportunity to increase in number because of its unique workplace focus. This will result in an increased need for EAP providers. This increases the potential for:

1. inaccurate problem assessment;
2. unnecessary or inappropriate referrals to treatment;
3. incompetent EA Professionals;
4. misrepresentation to the employees and employers about expected outcomes and results; and
5. incomplete follow-up and workplace reintegration efforts.

The only way to recognize the potential for harm or danger lies in the education of the consumer regarding inadequate and dangerous services. Emotional, psychological, and financial danger and liability exists when those practicing EAP do not respect the "privileged" relationship that is the basis of EAP. Unfortunately, most of the potential for harm or danger to the public can only be recognized after the fact. Only through regulation of the EA Professionals through licensure based on adherence to accepted standards of practice can we prevent and minimize public harm and protect the consumer.

- B. Has this potential harm or danger to the public been recognized by other states or the federal government through the licensing or certification process? Please list the other states and give the relevant statutory citations.**

Other states have initiated or are in the process of initiating state legislation for licensure of EA Professionals (see below). Two states have passed key legislation regarding discounted premium (5%) for Workers Compensation insurance for employers meeting drug-free workplace, drug testing, education and EAP compliances (see below).

The federal Department of Transportation, in its regulations, has recognized the Certified Employee Assistance Professional (CEAP) as a distinct profession separate from other professions, with the ability, to perform assessments as qualified Substance Abuse Professionals (SAPs).

- Tennessee - Chapter 42 Board of Employee Assistance Professionals (See Attachment #3)
- Florida - 38F-9 - This is a bill that gives employers 5% premium credit for Workers Compensation. (See Attachment #4)

Georgia - Georgia Law 811 - This bill also gives employers a 5% premium credit for Workers Compensation. (See Attachment #5)

The significance of all the above reflects the efforts to decrease the economic costs of substance abuse in the workplace and the important role the EAP plays in these initiatives as part of the solution/success.

IV. A. *What will be the economic advantage of licensing to the public?*

The public can be assured that what they are purchasing are true, quality EAP services and not some other product that will not achieve the desired results. Licensure assures a certified measure of quality and experience and a demonstrated level of competence.

Resources used to purchase quality EAP services by qualified EA Professionals will give employers an average of four (4) to ten (10) dollar return on each one (1) dollar investment in terms of reduced absenteeism, turnover, and Worker's Compensation claims as well as increased productivity. Licensure will also give consumers a route to expose inadequate EAP services and practitioners.

B. *What will be the economic disadvantages of licensing to the public?*

None, that we anticipate. This will allow for the licensure of qualified providers but is not exclusionary in nature.

C. *What will be the economic advantages of licensing to the practitioners?*

The ability to communicate to the public a standard of practice that is verifiable and the recognition of licensed practitioners as competent and ethical.

D. *What will be the economic disadvantages of licensing to the practitioners?*

None, except the minimal costs for licensure application and maintenance.

E. *Please give other potential benefits to the public of licensing that would outweigh the potential harmful effects of licensure such as a decrease in the availability of practitioners and higher cost to the public.*

Licensure would:

1. define and standardize EAPs;
2. extend consumer protection to the public so they know what they are purchasing;
3. increase ethical standards for practice; and
4. minimize unqualified practitioners who merely see EAP as a potential avenue for marketing their services (non EAP) to generate revenue.

Note: The marketplace is already highly competitive. Therefore, the costs are not expected to increase significantly for most purchasers of EAP services.

V. A. *Please detail the specific specialized skills or training that distinguish the occupation or profession from ordinary labor. How is each justified?*

- Refined assessment skills - ability to perform comprehensive assessment;
- Referral - the ability to determine the most effective, cost-conscious mode of treatment;
- Case management and follow-up - long-term involvement that allows for permanent gains to the individual and the workplace;
- Critical incidence stress, debriefing/trauma response training within the context of the workplace;
- Management/supervisory training and consultation particularly in regards to mandated performance and supervisory referrals and drug-free workplace efforts;
- Linkages of community resources including those on a national level for employees and dependents who are not locally based;
- Knowledge of risk management, disability management, and workman's compensation concerns;
- Benefits design and administration, managed care administration/partnering; and
- Program and Services Evaluation

As distinguished from other counseling profession:

- direct knowledge of the workplace and employer needs;
- concern for the employees lack of productivity as it relates to profitability;
- extensive knowledge of community resources; and
- extensive follow-up and case management skills.

B. *What are other qualities of the profession or occupation that distinguish it from ordinary labor?*

- Workplace focused;
- Dual client status - employee and employer; and
- Individual and organizational consultation.

VI. A. *Will licensing requirements cover all practicing members of the occupation or profession? If any practitioners of the profession or occupation will be exempt, what is the rationale for the exemption?*

No, only those seeking "licensed Employee Assistance Professional" status will be covered. This bill allows for certain long time EAP practitioners who are currently nationally certified to be grandfathered without fulfilling the educational requirement. It also allows professionals in other fields the same opportunity provided they meet the EAP licensure requirements. In some instances, professionals licensed in other fields have implied that such licensure includes the practice of EAP.

B. *What is the approximate number of persons who will be regulated and the number of persons who are likely to utilize the services of the occupation or profession?*

The licensure bill anticipates approximately 200 - 250 persons will seek licensure and be regulated.

Currently, approximately 1/7 (428,000) of the 3,000,000 members of the North Carolina workforce (some 2,000 employers) are covered by an EAP. Utilization of these programs range from 5% to 25%. Using a yearly 10% utilization rate as an average some 42,000 persons will utilize EAP services in a given year. These figures will increase as the number of employers implementing EAPs increases.

The North Carolina Drug-Free Workplace Alliance is a state initiative currently underway to promote and support through all the Chambers of Commerce in North Carolina, the implementation of affordable drug testing, EAPs and education. This will allow the small employees to have access to drug testing, EAPs and education.

VII. *What kind of knowledge or experience does the public need to have to be able to evaluate the services offered by the occupation or profession?*

The public needs a concise working definition of what an EAP is and does; what the certification and licensure standards are; how to report violations of ethics for individuals who misrepresent themselves; records of complaints and their resolution; and criteria to evaluate program and services. Licensure will assist the public in determining qualified providers and evaluating their services.

VIII. Does the occupational group have an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service? Please document.

Yes, See attached EAPA Standards; CEAP Certification; and Code of Ethics (EAPA)

IX. Please cite and document the extent to which any other licensing board in North Carolina regulates similar or parallel functions to the profession or occupation.

No other board regulates core EAP functions. Bits and pieces are regulated elsewhere eg. by Licensed Professional Counselors, Social Workers, Marriage and Family Therapists, Substance Abuse Counselors and Psychologists. However, the profession feels that the core EAP services require licensure and regulation as a whole as opposed to a piece meal effort.

Note: Other articles, fact sheets and general information have been enclosed to assist you with a complete understanding of Employee Assistance Programs and the Employee Assistance Professional.

QUEST.EAP